

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-02-TP-488
	)	
M/A Com Private Radio Systems, Inc.	)	NAL/Acct. No.200332700002
Owner of Antenna Structure Registration Number	)	
1233515 in Clarksville, Florida	)	FRN # 0005833058
Lynchburg, Virginia	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: October 22, 2002**

By the Enforcement Bureau, Tampa Office:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture*, we find M/A Com Private Radio Systems, Inc. ("M/A"), owner of antenna structure 1233515 in Clarksville, Florida, willfully and repeatedly violated Section 17.51 of the Commission's Rules ("Rules")<sup>1</sup> by failing to exhibit medium intensity obstruction lighting on structure 1233515. We conclude that M/A is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

**II. BACKGROUND**

2. Antenna structure #1233515 is located in Clarksville, Florida. M/A is the registered owner of this structure. The structure's Antenna Structure Registration ("ASR") specifies that the structure be lit with a medium intensity dual lighting system.

3. On August 6, 2002, an agent from the FCC Enforcement Bureau, Tampa Office observed that structure 1233515 was not illuminated per its assigned painting and lighting specifications in that the top strobe light was extinguished. An FCC agent contacted the Federal Aviation Administration ("FAA") who confirmed that a NOTAM had not been requested by the structure owner.

4. On August 7, 2002, agents from the FCC Enforcement Bureau, Tampa Office observed that structure 1233515 was not illuminated per its assigned painting and lighting specifications in that the top strobe light was extinguished.

**III. DISCUSSION**

5. Section 17.51 requires that all high intensity and medium intensity obstruction lighting should be exhibited continuously unless otherwise specified. On August 6 and August 7, 2002, M/A failed

---

<sup>1</sup> 47 C.F.R. § 17.51.

to exhibit required medium intensity obstruction lighting on structure 1233515 in accordance with its registration requirements. M/A had made no report of the light outage to the FAA.<sup>2</sup>

6. Based on the evidence before us, we find that on August 6 and August 7, 2002, M/A willfully<sup>3</sup> and repeatedly<sup>4</sup> violated Section 17.51 of the Rules by failing to exhibit tower lights on structure 1233515.

7. Pursuant to Section 1.80(b)(4) of the Rules,<sup>5</sup> the base forfeiture amount for failure to exhibit obstruction lighting is \$10,000. Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "...the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history or prior offenses, ability to pay, and other such matters as justice may require."<sup>6</sup> Considering the entire record and applying the factors listed above, this case warrants a \$10,000 forfeiture.

#### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>7</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>8</sup> M/A Com Private Radio Systems, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 17.51 of the Rules by failing to exhibit obstruction lighting on structure 1233515 in Clarksville, Florida.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *Notice of Apparent Liability*, M/A Com Private Radio Systems, Inc., SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced in the letterhead above. Requests for payment of the full

---

<sup>2</sup> Registered antenna structure owners must notify the FAA of any known improper functioning of any top light or any flashing obstruction light. See 47 C.F.R. § 17.48(a).

<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>4</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

<sup>5</sup> 47 C.F.R. § 1.80(b)(4).

<sup>6</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>7</sup> 47 U.S.C. § 503(b).

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12<sup>th</sup> Street, SW, Washington, DC 20554.<sup>9</sup>

11. The response if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/and FRN referenced in the letterhead above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

14. IT IS FURTHER ORDERED THAT a copy of this *Notice of Apparent Liability* shall be sent by regular mail and Certified Mail Return Receipt Requested to M/A Com Private Radio Systems, Inc., 3315 Old Forest Road, Lynchburg, VA 24501.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow  
District Director - Tampa Office  
Enforcement Bureau

Attachment.

---

<sup>9</sup> See 47 C.F.R. § 1.1914.